

Amendments to the Drawings:

The drawing sheets attached in connection with the above-identified application containing Figure(s) 1 and 3 are being presented as a new formal drawing sheets to be substituted for the previously submitted drawing sheet or sheets. The drawing Figures 1 and 3 have been amended by replacing the words “AMENDED DRAWING” at the top of the sheets with the word “AMENDED” at the bottom of the sheets as required by the MPEP.

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Introduction

Claims 101-165 are now pending in this application. These claims were newly presented in an amendment dated 8/13/01. The examiner is requested to renumber these claims in numerical order to follow the number of claims in the original patent, as provided in MPEP § 1453, example 5.

Original claims 1-12 that were issued in the patent have been cancelled. New claims 13-100 that have been presented during the prosecution of the present reissue application have also been cancelled.

No claims are added, cancelled or amended in the present amendment.

II. Drawing Objection

The drawings were objected to because drawing Figures 1 and 3 have the words “AMENDED DRAWING” at the top of the sheets rather than the word “AMENDED” at the bottom of the sheets as required by the MPEP. In response, drawing Figures 1 and 3 have been amended by replacing the words “AMENDED DRAWING” at the top of the sheets with the word “AMENDED” at the bottom of the sheets as required by the MPEP. Applicants respectfully request a withdrawal of the objection.

III. Claim Rejection

Claims 101-165 have been rejected as being based upon a defective reissue declaration. This rejection is respectfully traversed for the following reason.

A. Agreement was reached during the interviews

Applicants appreciate the courtesy extended by the Examiner in conducting telephone interviews with Applicants' representative on March 9 and April 28, 2005 to discuss the new reissue declaration requirement. During the interviews, the examiner requested that arguments made during the interview be summarized in an informal email to the examiner. Applicants' representative summarized these arguments in an email to the Examiner dated April 29, 2005.

In a reply email dated May 24, 2005 from the Examiner to Applicants' representative, the Examiner wrote:

SPRE Dorner agreed that no new supplemental declaration is needed. Please file the amendment formally. Thank you.

As requested by the Examiner, Applicants provide reasons why a supplemental reissue declaration is not necessary in section B below. These reasons were previously presented in the informal email dated April 29, 2005 and discussed during the telephone interviews. Thus, agreement was reached that a supplemental declaration is not needed. Applicants respectfully request a withdrawal of the remaining rejection of the claims.

B. Summary of arguments

The Office Action indicated that a supplemental declaration is required for the following reasons:

(A) the current declaration fails to specify at least one error being relied upon as a basis for the reissue; and

(B) the current declaration fails to state that all errors are being corrected up to the filing of the declaration arose without deceptive intention on the part of the applicant to cover all amendments made during prosecution.

Applicants respectfully disagree for the following reasons.

(A) The original reissue declaration specified an error that was being relied upon as a basis for the reissue. This error is still being corrected. Thus, the supplemental reissue declaration does not need to again specify an error.

Specifically, MPEP 1414.01 states:

"In the supplemental reissue oath/declaration, there is **no need to state an error** which is relied upon to support the reissue application **if**:

(A) an error to support a reissue has been previously and properly stated in a reissue oath/declaration in the application; and (B) that error is still being corrected in the reissue application.

The supplemental reissue oath/declaration must state an error which is relied upon to support the reissue application only where one of the following is true:

(A) the prior reissue oath/declaration failed to state an error;
(B) the prior reissue oath/declaration attempted to state an error but did not do so properly; or
(C) all errors under 35 U.S.C. 251 stated in the prior reissue oath(s)/declaration(s) are no longer being corrected in the reissue application."

In the present case, an error to support a reissue has been previously and properly stated in the original reissue oath/declaration filed on April 9, 1996. Specifically, in paragraphs 26 and 27 of the original reissue declaration, applicants pointed out that the error being corrected was that applicants claimed less than they had a right to claim in the patent because the independent claim contained a limitation that the reinforcing member had a first portion (such as flange 4B). In other words, at least one of the errors being corrected was that the term "first portion" of the reinforcing member was removed from at least one independent claim to broaden at least one independent claim.

Furthermore, this error is still being corrected in the present reissue application. For example, presently pending claims 113 and 128 do not recite a first portion of the reinforcing member.

Applicants submitted signed form PTO/SB/51S as a supplemental reissue declaration on 11/4/04 together with a response to the previous office action. Applicants submit that this supplemental reissue declaration did not need to explicitly state an error because the original reissue declaration properly stated an error which is still being corrected in the reissue application.

(B) As noted above, applicants submitted signed form PTO/SB/51S as a supplemental reissue declaration on 11/4/04 with the response to the previous office action. Form PTO/SB/51S stated that "Every error ... not covered by the prior ... declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant."

Furthermore, applicants submitted formal drawings together with the signed form PTO/SB/51S on the same date. Thus, the latest supplemental declaration submitted on 11/4/04 covers the amendment in the formal drawings filed on 11/4/04.

Applicants enclose the same formal drawings with this response, but with the "Amended Drawing" label changed to "Amended", as requested in the Office Action. This clearly is not a substantive amendment to the drawings. Thus, it is submitted that another supplemental declaration is not required.

In conclusion, applicants submit that both reasons (A) and (B) provided in paragraph 3 of the Office Action for submitting a supplemental reissue declaration are not correct in view of MPEP 1414.01.

III. Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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By 

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.